

THE HON'BLE SRI JUSTICE C.Y.SOMAYAJULU

WRIT PETITION No.13373 of 1999

Date: 18.09.2007

Between:

B.Sampath Kumar, S/o Viswanatham, 50 years, Managing Partner,
Sivashankara Picture Palace, Khammam, Khammam District.

.....PETITIONER(S)

AND

1. The Joint Collector, Khammam District, Khammam and another

.....RESPONDENT(S)

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THE HON'BLE SRI JUSTICE C.Y.SOMAYAJULU

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WRIT PETITION No.13373 of 1999

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ORDER:

This writ petition is filed questioning the notice dated 16.04.1999 of the first respondent directing the petitioner to remit the stamp duty as fixed by the District Registrar on the deed of Dissolution of Partnership.

2. The contention of the learned counsel for petitioner is that since Cinema Theater is a partnership firm and since partnership can be dissolved by a deed of dissolution and even if the immovable property is given to a partner as his share in the dissolution, the said instrument is not liable to any further stamp duty, except the stamp duty payable as a deed of dissolution as per the decision of the apex Court in **ADDANKI NARAYANAPPA v. BHASKARA KRISHNAPPA**^[1] and so the impugned order is unsustainable. Heard the learned Government Pleader for Home.

3. The learned counsel for petitioner produced Xerox copies of Partnership Deed-cum-Retirement Deed, dated 11.10.1996 and another Partnership Deed-cum-Retirement Deed, dated 15.11.1996, whereunder the cinema theater was allotted to the share of the petitioner.

4. In view of the ratio in **ADDANKI NARAYANAPPA** case (1 supra) those two deeds do not need any further stamp duty or registration as they, in fact, are engrossed on a stamp worth more than what is actually required as deeds of dissolutions-cum-

reconstitution of the firms as per the provisions of the Act, because till the date of coming into force of the A.P. Act 19 of 2005, the stamp duty payable, for dissolution of partnership was Rs.300/- in respect of partnerships whose capital exceeds Rs.5,000/-. By virtue of A.P. Act No.19 of 2005, entry 41 in Schedule I-A of the Stamp Act, 1899, stood amended and, now, as per the said amendment in cases of dissolution of partnerships, whereunder property which belonged to one partner or partners at the time of commencement of the partnership is distributed or allotted or given to another partner or partners, the deed of dissolution should be stamped at five percent of the market value of the property distributed or allotted or given to a partner or partners under the said deed of dissolution in addition to the duty chargeable on such dissolution if such property had not been distributed or allotted or given; and in any other case, Rs.500/-. In this case, the dissolution was long prior to the coming into force of A.P. Act No.19 of 2005. The ratio laid down in **ADDANKI NARAYANAPPA** case (1 supra) would govern the deeds of dissolution and reconstitution of firms in question, and so the stamp they bear is sufficient and no further stamp duty need be paid thereon.

5. Therefore, the memo impugned is liable to be set aside and hence is set aside.

6. First respondent shall consider the application of the petitioner on the basis that the deeds of dissolution-cum-reconstitution of the firms are properly stamped and pass appropriate orders as expeditiously as possible at any rate within a period of three months from the date of receipt of a copy of this order. The writ petition is ordered accordingly. No order as to costs.

18.09.2007

tjs/Cvrk

[\[1\]](#) AIR 1966 SC 1300